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THE PREPARATION OF ZONING ORDINANCES

A Guide for Municipal Officials and Others in the Arrangement of Provisions in Zoning Regulations

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U. S. DEPARTMENT OF COMMERCE
R. P. LAMONT, Secretary
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GEORGE K. BURGESS, Director

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A Guide for Municipal Officials and Others in the Arrangement of Provisions in Zoning Regulations

By the Advisory Committee on City Planning and Zoning
of the U. S. Department of Commerce

JULY 1, 1931

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THE PREPARATION OF ZONING ORDINANCES

INTRODUCTION

THE FUNCTION OF ZONING.—Zoning is a part of city or community planning, designed to promote and protect the health, safety, morals, convenience, prosperity, and general welfare of the inhabitants of the community. By a zoning ordinance a municipality may be divided into districts in which the use of land, the use, height, and bulk of buildings, the density of population, and the area of the lot upon which buildings may be placed are regulated. Zoning regulations should be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

PURPOSE OF THE PAMPHLET.—Since the publication in 1923 of the standard State zoning enabling act by the advisory committee on city planning and zoning of the Department of Commerce, the division of building and housing of the department, with which the advisory committee collaborated in its study, has received thousands of inquiries relating to all phases of the subject. The number seeking information on the preparation and arrangement of zoning ordinances, and the rapidly increasing country-wide interest in zoning, have led the committee to believe that a short treatise on that aspect of the problem will be of distinct assistance.

The purpose of this pamphlet is to present a guide for the use of those who draft zoning ordinances. It is in no sense a model ordinance, although in a few instances, such as the title, preamble, and the section on nonconforming uses, specific wording is suggested. It is designed to aid in a simple, logical, practical, and legally satisfactory arrangement of provisions in the ordinance, to promote uniformity in form and arrangement, and to point the way to economy of time in the drafting and use of such ordinances more than to suggest what regulations they shall contain. It is not intended as a substitute for a zoning consultant. Local needs are so different and pitfalls are so numerous that a specialist may well be employed.

HISTORY OF ZONING

ITS SPREAD.—Since the adoption in New York City in 1916 of the first comprehensive zoning ordinance in this country, there has been a rapid recognition of the merits of the zone plan in making our municipalities better places in which to live and work. During the last 15 years over 46,000,000 people, or a number equal to more than 67 per cent of the urban population of the United States have submitted their property to this mode of regulation. This acceptance of such restrictions is eloquent of the sense of fairness and civic responsibility of the people.

VALIDITY.—This new and broad application of the police power has frequently been in question before the courts. The courts have generally been quick to grasp the beneficial potentialities of this control and have upheld the ordinances, while jealously guarding constitutional guarantees to individual property owners. In a few instances where the courts have hesitated to admit their validity the people have exercised their power, and State constitutions have been amended expressly granting State legislatures the authority to pass enabling acts permitting zoning.

Many of the early difficulties encountered in zoning were due to a lack of municipal authority to enact such regulations. In many instances ordinances were successfully attacked in the courts on the ground that the power to zone did not reside in the municipality under its constitutional powers and had not been specifically granted to the municipality by the State. In some instances the necessary powers were deemed within the constitutional powers of the municipality; but where this was not the case the obstacle was overcome by amended city charters or by enabling acts expressly empowering cities of a certain class or classes to enact such legislation. Impetus was given this movement by the standard act referred to, and most of these difficulties have been eliminated. Thirty-six States have used the standard act wholly or in part.

APPLICATION.—Not only is zoning operative in 82 of the 93 principal cities of the country and in 899 smaller municipalities but it is being applied to larger governmental units, such as counties; for example, Los Angeles County, Calif., and Milwaukee County, Wis. Special areas also have been studied for the purpose of insuring, through regional planning, the orderly growth of the fringes of cities, and zoning will constitute a part of this control. Examples of this movement are the creation of the National Capital Park and Planning Commission and of the Maryland-National Capital Park and Planning Commission to cooperate in planning Washington, D. C., and contiguous Maryland territory; the Regional Plan of New York and Its Environs; the Regional Planning Federation of the Philadelphia Tri-State District; the Chicago Regional Planning Association; and others.

TYPES OF ORDINANCES.—Three types of ordinances have been used. They may be classified as (1) comprehensive zoning ordinances, which are based upon an extensive and intensive study of local conditions and after public hearings; (2) interim zoning ordinances, which are a more or less hastily devised plan of control throughout a municipality pending a thorough study and the adoption of a comprehensive zoning ordinance; and (3) piecemeal ordinances, which are, properly speaking, not zoning ordinances at all. Under this last-mentioned type regulations are applied only to certain districts of a municipality.

Piecemeal ordinances.—The validity of zoning depends upon the absence of arbitrariness and discrimination and the uniformity of regulations for each class and kind of buildings throughout each district, and an attempt at regulation by a piecemeal ordinance is of doubtful validity because it may be open to attack on all three of these grounds. It should not be resorted to if adoption of one of the other plans is possible.

Interim zoning.—Interim zoning, while undoubtedly more sound than piecemeal zoning, is used mostly by municipalities contemplating a comprehensive ordinance or to prevent the erection of an undesirable structure that is likely to be detrimental to the district in which it is proposed to be located. The interim ordinance usually applies to the entire municipality, but does not have the virtue of being based upon an exhaustive study of conditions. It should be used only as a stop-gap or emergency measure, and as such, while a comprehensive ordinance is being prepared, it is scrutinized less critically and is more liberally construed by the courts than is the comprehensive measure.

Comprehensive zoning.—Comprehensive zoning ordinances, which are the only type contemplated by the standard act, have been adopted by the great majority of the 920 zoned municipalities, some of them after temporary use of one of the other types, but in most instances as the initial means of regulations.

CAUTION NECESSARY.—The abandonment of comprehensive zoning is almost unheard of. Thought and study of the subject have developed sound principles expressed in opinions of the highest courts of most of the States and of the United States Supreme Court. These are now available as guides to municipalities considering zoning for the first time.

Zoning is not a cure-all for civic ills, and should not be so considered. A warning on this point was given recently by a Pacific coast leader in the field. He suggests that the subject has to date been passing through the first stage of its evolution and believes it is fortunate that during the early part of that period zoning was practiced in relatively few cities, since the main problem thus far has been to establish the validity of such regulations. He points out that the subject has had considerable news value and that each decision on a new and important point has been given wide publicity resulting in a tendency of some people to consider these measures so firmly intrenched that almost anything may be accomplished in the name of zoning. Such a view, he rightly says, is dangerous, and municipalities must still proceed with caution and confine their efforts within reasonable bounds.

DESIRABILITY OF EARLY ZONING.—If public officials will heed this warning the early adoption of proper ordinances is to be encouraged. Early regulation prevents mistakes that are bound to occur in the absence of regulation, saves whole districts from blight caused by the improper location of an industry, business, or other use, with the consequent economic waste through impaired or threatened health, depreciated property values, incomplete use of utilities installed at great public expense, and the necessity of reinstallation elsewhere.

Officials should realize, however, that in spite of progress made, it is still essential that local conditions be painstakingly studied, that each problem be attacked in its peculiar circumstances, and that every effort be made to solve it in the light of experience gained in other and similar cases, but without blind copying of what has been done elsewhere. It is elementary in our system of jurisprudence that each case must be decided on its own merits, although previous cases are looked to for guidance and are very often accepted

as controlling precedents establishing the law on the point under consideration. That is the attitude in which local legislative bodies should view their zoning problems. If some local conditions are found to be like those of another city whose regulations for meeting the problem have been successful, then adoption of such regulations may be commended. The parallel in conditions must, however, be ascertained by study, not guesswork. An essential point of difference in the situation to be treated may require a quite different remedy.

No two cities are alike. Some are industrial, some seaports, some suburban residential. Moreover, these suggestions are not for cities only, but for villages, boroughs, and towns. Each municipality must arrange the districts and the requirements of each district according to its peculiar needs.

PROCEDURE LEADING TO PREPARATION OF AN ORDINANCE

Basis of Authority.—In considering the zoning of a municipality it must first be determined whether proper authority has been granted by the State for the adoption of effective regulations. This can be done by the State constitution or by a special or general act of the State legislature. Whatever the powers granted by the constitution may be, however, it is always advisable that there be an enabling act passed by the State legislature. A list of those States which have adopted, wholly or in part, the standard act, with citations to the acts, is included in the Appendix. Others have passed individual forms of enabling acts.

Procedure contemplated by the standard act as well as that adopted in some jurisdictions other than those using the standard act is predicated upon the designation of a zoning commission. The best practice is to entrust the work of zoning to an existing or newly created planning commission, in which case no separate zoning commission need be set up. In any case, the personnel of the body which is to do the work should be selected from among the citizens of the community whose sympathies are with the zoning movement and whose background and qualifications are such as to insure a clear understanding of the local problems to be encountered. They should be men of ability and of such prominence as to inspire in the people confidence that arbitrary action and discrimination will not be indulged. This is the best insurance that their recommendations will be cordially received.

Duties of the Zoning Commission.—The duties of this commission, as prescribed in the standard act, are to fix the boundaries of the various districts and to formulate the regulations to be enforced in each. These duties must be exercised with care and only after a thorough study and public hearings. This study will cover the physical characteristics of the various sections of the city, the probable future of each section, as shown by the present trend of development, and the development likely to result from the contemplated control, as well as the present and probable future needs of each section and of the city as a whole. Too much stress can not be placed upon the desirability of holding a number of public hearings, through which the people generally may learn at first hand the

results sought to be accomplished and the methods proposed to be employed in attaining these results. On the other hand, by means of these public discussions the commission will derive the fullest benefit of the best thought of interested persons.

Upon the basis of such study and hearings the commission will then prepare a measure to be recommended to the municipal legislature for passage. The preparation of such a measure will be discussed in this pamphlet step by step in about the order in which it is believed matters should be dealt with in the ordinance. It is thought that this discussion will save some time and effort in the drafting as well as in the use of the ordinance.

PREPARATION OF ZONING ORDINANCES

If a new city could be planned before there were any structures in it, the plan would show streets, parks, sites for public buildings, zoning districts, and routes for public utilities. There is an important interrelationship among all these elements of city planning. But in actual experience it is the already-built city or village that desires to zone. Some say that a better plan for streets, parks, sites for public buildings, and routes for public utilities should be made simultaneously with the framing of a zoning plan. There can be no question that this is the right way. This way helps to discover what will be business streets 10 or 20 years hence, what will be main-traffic thoroughfares, and what localities now residential are tending toward industrial. All that can be learned from the preparation of a master plan will help to make a better zoning plan. It is, however, a mistake to postpone zoning until a better city plan can actually be carried out. A thoroughgoing widening and cutting of main thoroughfares will take from 5 to 15 years, and in that time hurtful invasions must occur that zoning could have prevented.

When a municipality is convinced that it is time to zone, it should consider employing a zoning consultant. Zoning is not simply an engineering proposition. Many other professions are included. It is full of pitfalls. A city would not think of building a suspension bridge or a filtration plant without employing some one with actual experience. A poorly prepared zoning plan is dangerous. Not only will time develop the need of expensive changes, but lawsuits will almost inevitably arise that will cost the municipality more than it would have cost to retain a zoning consultant. The practice of considering a zoning ordinance like a building code has grown. If the city engineer hears that a neighboring city has a carefully prepared and effective building code, he procures a copy and attempts to adapt it to his town. Just so, if he hears that some other city has, with the help of a zoning consultant, prepared a good zoning ordinance, he secures a copy and tries to adapt it to his city.

Copying building codes is not good practice; copying zoning ordinances is much worse. No two municipalities are alike. A building code contains those regulations that are uniform throughout the municipality. A zoning ordinance, on the other hand, contains those regulations that differ in different districts. Consequently, the zoning regulations must be adapted intimately to each part of the municipality. They must start with an exact knowledge of each

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block and the structures in it and its probable future. It can not be a copy job. Copying leads into more errors than it prevents. This is not to say, however, that the consultant and his local staff will not use good points from all the ordinances in the country.

A few municipalities may decide that their own excellent engineers and architects, who are intimately acquainted with local conditions, can prepare the zoning plan better than anyone else and without the help of a zoning consultant. If, however, a city chooses to proceed without the advice of an expert, it should insist on having its own zoning plan worked up as painstakingly as was done in the first zoned cities of the country. Greater New York, for instance, had no precedents to follow and consequently was compelled to build up the plan from the foundation. First there was a 2-year study of high buildings and their possible regulation. This study covered those cities of the world that had high buildings. Then followed a year of work on framing and passing a State enabling act under which the city could regulate height, area, and use. During the next two years basic maps were made (not to be confused with the maps used in the ordinance), one showing existing heights and building materials, another showing existing uses of buildings, another showing distances from centers by rapid-transit lines. Fundamental data of all sorts were collected and studied. At last the comprehensive zoning ordinance was framed with three maps, one showing allowable heights, another allowable bulk, and another allowable uses, each covering the entire five boroughs of the city. Whatever were the defects of this zoning plan, it could not be said that it was not intimately adapted to Greater New York. The fact that it was so painstakingly adapted to each locality, block by block, did much to win court approval.

An unzoned municipality of to-day should produce a better zoning plan than it could have in earlier years, because it has the experience of many others to guide it. This experience includes court decisions. Instead of spending five years in the preparation of a plan it can shorten the time to one or two years and get a better plan than the early cities. But officials should insist that as intimate a study be made of their municipalities as was made by the early cities.

Too often a municipality begins its zoning work with the preparation of a tentative zoning map made by its engineer or an emergency staff of engineers and architects. Unfortunately, not until later is a zoning commission established that readjusts the map and gradually blocks out an ordinance. The city attorney, who should make himself familiar with the State zoning enabling act and the main court decisions on zoning, should be the constant adviser of the zoning commission.

Most State enabling acts require the establishment of a zoning or planning commission to prepare the ordinance and maps. The purpose is that they shall be the result of systematic and comprehensive study. The appointment of this commission should not be postponed until the work is partly done. Sometimes the council sets the chief engineer at work on the proposed maps, desiring to keep in intimate touch with the early phases of zoning because the members conceive that some injury may be done to their constituents. Then

after the work is half done the zoning commission is appointed in order to comply with the law. This method is not fair to the municipality or to the commission. The zoning or planning commission, the city attorney, the zoning consultant (if there is one), the city engineer, and the staff should begin work simultaneously. The commission should not be composed of legislative officials or, to any great extent, of officials under the direction of the local legislature. It is often well, however, to put the fire chief or the health officer on the zoning commission. One reason that council members should not be on the commission is because they will be the ultimate judges of all provisions of the ordinance and maps. Their official consideration should not be invoked until the complete plan is presented to the council. Commitments on details prejudice broad judgment. Bad feeling is sometimes engendered if local legislators have subjected themselves to all the criticism that goes with the necessary adjustment of the zoning districts. It is much better that an independent zoning commission of citizens should take the brunt of these early decisions.

It is a mistake to make the ordinance first and then the maps, or to make the maps first and then the ordinance. They constitute a single entity and should be prepared together. Some cities, before they have sufficient information, make or copy the form of a proposed ordinance. Then the staff is instructed to make a map that conforms to the requirements of the ordinance. This embarrasses the staff and impairs the effectiveness of the whole work. Frequent conferences with the city attorney will prevent these maladjustments. When the staff discover that an unusual district must be created because of the unique needs of the municipality, they should at once confer with the city attorney and commission so that the ordinance as a whole can be harmonized before the staff assumes to locate the new kind of district on the map. Every municipality presents spots where zoning is difficult and where care must be taken to avoid both arbitrariness and discrimination The staff alone should not decide these difficult points because errors may creep in and it is better to make them right in the first place than to get them wrong and then need to make fundamental alterations. Property owners often claim that they have a right to depend on the first arrangement of districts and that they are treated unfairly if a change is made. Their contention is given color of validity if they are able to point to such a previous agreement with their views.

These considerations bring up the whole subject of interviews, conferences, and hearings with property owners. We know of no reason why property owners should not be taken into the confidence of the commission and staff at an early stage of the proceedings. Nothing does more to disarm criticism than consultations and conferences before final crystallization of the zoning districts has taken place; but it is advisable to do this only after a tentative districting plan, based upon adequate data, has been blocked out and the essential provisions of the ordinance tentatively determined. Property owners should be given to understand that it may be impossible to carry out their wishes, but that the commission and staff want the benefit of their advice. It is often surprising to officials (although it ought not to be) to find out how much the owners know about the

future of their own land. Of course, officials can not surrender the making of the map to the landowners, but if the landowners can be shown the purposes of zoning, it is remarkable how greatly the officials can be helped by their combined advice. When it is remembered that the objects of zoning are to stabilize structures and uses, bring about a better division of light and air, as between owners, and prevent hurtful invasions, one realizes that zoning is not the instrumentality to bring about all sorts of hoped-for improvments in architecture and engineering. Often the ideals of officials could only be realized through eminent domain and at great expense.

Zoning must always be a reasonable regulation and not a taking. If it is a taking the owner properly looks to the courts to protect him, and his good citizenship can not be brought into question because he appeals to the courts. It is noticeable throughout the country that the courts uphold those zoning plans that in their origin carried out the desires of intelligent property owners. Most of the zoning plans that have been shot through by adverse court decisions were based on the desires of unintelligent or prejudiced property owners or the whims and fancies of officials who either did not understand or would not recognize the principles of the police power.

The steps provided in the enabling act to be taken by the commission and council concerning hearings, reports, and public notice are jurisdictional—that is, if they are omitted, the validity of the final ordinance is impaired. State legislatures have had a wise purpose in requiring these steps. The exercise of zoning powers affects land and its uses so intimately that the State is unwilling that these regulations shall go into force until they have been carefully and patiently studied and fully submitted to the criticisms and suggestions of landowners.

State enabling acts usually provide that after the zoning commission has made its final report to the council a public hearing must be duly advertised and held before the ordinance can be adopted. If the council makes no changes, or if it makes changes that render provisions less restrictive, the council can properly adopt the ordinance. If, however, the council makes changes that result in substantially more restrictive requirements, and especially if these changes are extensive or affect land that was not represented at the hearing when the original provisions were debated, it is best to advertise and hold a new hearing. This is in order that affected landowners can not later say that they were lulled into silence by the ordinance and maps which were the basis of the official hearing, and that later more restrictive regulations were imposed on their land regarding which they had no opportunity to be heard. Sometimes the hearing is adjourned and announcement made in the newspapers that important changes of the map have been made which can be seen at the office of the city clerk. This method is likely to constitute notice, but the best method is to readvertise and hold a new hearing.

It is frequently the case that the State law requires the ordinance to be printed in a newspaper before it can go into effect. Officials are sometimes perplexed as to whether they must print the map as well as the ordinance. As the the map is part of the ordinance, it may be found necessary in certain jurisdictions to print it also.

However, such printing may sometimes be avoided, upon competent legal advice, by printing the ordinance and referring to the record map which is on file. Printing the ordinance is ordinarily the function of the city council or other legislative body of the municipality rather than the planning commission, and while it may be found desirable for the zoning or planning commission in certain instances to print the ordinance complete in a newspaper as publicity material, the legal requirement for printing applies after, or in connection with, adoption of the ordinance by the legislative body of the community.

ORDINANCE OUTLINES

In general, three types of regulations are provided in a zoning ordinance with reference to "use," "height," and "area." The districts in which these regulations apply are shown upon a map or maps that are made a part of the ordinance. There may be one, two, or three sets of districts. In the case of one set, all regulations for each subdivision, whether included under the heading of use, of height, or of area in the ordinance, would apply within the district boundary for that subdivision. Where two sets of districts are provided the more customary arrangement is for the use regulations to be applied in one set of districts and the height and area regulations combined in the other set of districts. However, it sometimes is found more applicable to special circumstances to combine use and height regulations and to provide a separate set of districts under which the area provisions are applied. In the third arrangement three sets of districts are laid out, one in which the use regulations are set up, in another the height limitations, and in the third, the area regulations.

Where more than one type of district is used there will be separate boundary lines for each, but at the same time one type of district may be superimposed, in part, upon another. Because of this, it is sometimes—though seldom—found necessary, for the sake of simplicity, to show the district boundaries upon more than one map or set of maps. However, by the careful use of symbols—and particularly by employing different colors—all district boundaries may be shown upon one map or set of maps. The use of the map and the administration of the ordinance is thus made more easy and the cost of reproduction materially reduced.

In most instances the application of the regulations through the use of one set of district boundaries will be found most convenient; that is, use, height, and area regulations may be set up within identical or coterminous boundary lines. However, the seeming simplicity of this arrangement frequently is found to be more apparent than real. If it becomes necessary to provide for different height or area regulations in districts permitting the same type of use, there may result a great number of subdivisions of each use. For example, the studies may have determined that two residence districts are applicable to the situation, one providing primarily for single-family dwellings, and the other for 2-family or multiple dwellings. But in order to provide for different height or area limitations, it may be found necessary to subdivide these two types of districts, so that if an attempt is made to use coterminous district boundaries the ordi-

nance and plan might contain 8, 10, or even more residence districts instead of the 2 originally planned.

In any event, the selection of the most applicable method of districting will be found to depend largely upon the requirements to meet existing development in the community and in some measure to provide for future possibilities. There is no criterion which can be set up which will be found of general application and the decision in this, as in most other features of the ordinance, must be that which will best meet peculiar local needs and circumstances.

It is, of course, desirable to have a compact ordinance containing as simple an arrangement as possible. It may assume a variety of different arrangements, but in general will follow one of the two outlines given in the appendix attached hereto. Both have been used in practice and found to work out to good advantage. However, it should be remembered that after its adoption the frequent use of the ordinance will be in its administration; and the individual property owner may have occasion for the most part to make application for a building permit but once. In the other cases such applications will be made through architects, contractors, or builders, who quickly become familiar with the arrangement and provisions of the ordinance. It is more important, therefore, that the arrangement be convenient for reference rather than that all provisions pertaining to one type of district be grouped under one section controlling the type of development in that district. Repetition should, however, be avoided where possible and the provisions stated as concisely as possible under definite and clear section headings.

In the following pages are given suggestions as to the make-up of the ordinance and the methods of stating the provisions under different section headings. These comments apply regardless of the general arrangement of the ordinance and the layout of the districting plan or plans.

TITLE

CONTENTS.—There should be selected an appropriate title. The rules as to title are usually not so strict with reference to ordinances as they are regarding statutes. It is quite generally required that the purpose of a statute shall be expressed in its title, and that each statute shall deal with but one subject. This rule applies to ordinances in some jurisdictions, but not in others. Each city should follow the prescribed procedure in preparing the title to its ordinance. Where the rules permit, the title should, however, be comprehensive in order that interested persons may learn the scope of the measure with a minimum of effort. Where there is no requirement that the purposes to be served by the ordinance shall appear in a title (and such a requirement is seldom found) it is better practice to omit them and to state them in a separate paragraph or preamble. A form of title for a comprehensive ordinance follows:

FORM.—An ordinance regulating and restricting the height, number of stories, and size of buildings; the percentage of lot that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings and land for trade, industry, residence, or other purposes; creating districts for said purposes and establishing the boundaries thereof; providing for changes in the regulations, restrictions, and boundaries of such districts; defining certain terms used herein; providing for enforcement; establishing a board of adjustment; and imposing penalties.

PREAMBLE

CONTENTS.—Under this heading should first be set out the enabling basis upon which the ordinance is dependent, as "In pursuance of authority conferred by Act No. ____ of the year ____" or "In pursuance of authority conferred by article ____, section ____, of the charter of ----------." There should then follow a statement of the purpose of the ordinance, which is practically the same in every municipality. The police power is everywhere recognized as based upon the promotion of health, safety, morals, or general welfare, while in some jurisdictions other bases, such as order, convenience, comfort, and prosperity, are included. The terms commonly used in defining the limits of the police power by the courts of the particular State may be used in the ordinance, but others should be avoided in order to reduce to a minimum the avenues of successful attack. It is probably better practice to employ only those terms of universal application.

The purposes of the ordinance and the means of attaining those purposes should not be confused. Such terms as by insuring adequate provision of light and air; by regulating the density of population; by conserving property values; by reducing the fire and traffic hazards; by securing convenience of access and safety from panic; and by facilitating adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, to mention but a few of the many terms employed, will be readily recognized as means to an end, viz, accomplishing by these means the purpose of the ordinance to promote and protect the health, safety, morals, or general welfare. In reciting means to be employed it is not necessary to state all of them, since the courts will not consider those enumerated as exhaustive. It is well to follow those named with a catch-all term as "and by other means."

There should appear also in this part of the ordinance a reference to the fact that the regulations are enacted in accordance with a comprehensive plan. A suitable preamble follows:

FORM.—In pursuance of authority conferred by ---------- and for the purpose of promoting the health, safety, morals, or general welfare (here add the other purposes included within the constitutional scope of the police power in the particular State) of the inhabitants of ---------- by lessening congestion in the streets; securing safety from fire, panic, and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue congestion of population; facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and by other means, in accordance with a comprehensive plan; now, therefore

ENACTING CLAUSE

The enacting clause should follow the preamble. This is the expression of the municipal legislative will that the regulations to follow shall come into being. There is a great diversity in minor particulars of the enacting clause and the form commonly used by the particular municipality should be employed here.

SHORT TITLE

A section providing a short title by which the ordinance may be properly identified should be included; for example, "the zoning ordinance."

DEFINITIONS

THEIR POSITION IN THE ORDINANCE.—There is some difference of opinion as to whether definitions should appear at the beginning of the ordinance or as one of the later sections. On the one hand it is urged that they should constitute one of the later sections and the analogy is drawn of placing the glossary at the back of a book. The analogy is not good. A glossary contains such terms as may be unfamiliar to the reader through obsolescence, peculiarity, obscurity, or their highly technical character. In the ordinance, however, it is not such unfamiliar or technical terms that are defined, but terms that are constantly used by the average person and to which a particular significance is attached for the purposes of the ordinance only. For instance, the average individual can acceptably define the word "lot" for any ordinary purpose, but in order that he may read the ordinance intelligently and without interpreting it in the light of such preconceptions of everyday terms, he should at the outset be told the special meaning of the word in the later text.

Then, too, if the subject under discussion by an author is in an abstract field, one may differ with him regarding the definitions appearing in the glossary and this difference of opinion will probably have no practical detrimental effect. The reader is free to put upon the gloss any interpretation he may wish. However, in a valid ordinance there is not the same freedom of interpretation. The ordinance provides exactly what significance shall attach to a defined term, and deviation therefrom is at the peril of the person who acts contrary to its terms. It is, therefore, necessary that the ordinance be read in the light of the terms defined, and economy of time results from placing the definitions in the first section.

This procedure materially assists in a clear understanding of the ordinance and obviates the necessity of the reader revising interpretations already placed upon the regulations when definitions are met in one of the later sections.

PURPOSE OF DEFINITIONS.—It is difficult, if not impossible, to say what terms it is desirable to define. It must be remembered that the ordinance is to be interpreted by the public, by the officials charged in the first instance with its enforcement, and by the reviewing authorities including the courts. It is essential, if litigation is to be avoided, that the regulations be precise, definite, and clear. Experience abundantly shows that the sections whose meaning is most obscure are the most fruitful source of contest.

While, therefore, definiteness is distinctly an aim, effort should be made to avoid the pitfall of too elaborate definition as it tends to restrict the meaning of terms, and results may follow that were hardly to be expected. Each local body prescribes the meaning of certain terms found in its ordinance. Scores of such definitions appear in existing ordinances. It is true that many local considerations enter into the preparation of each ordinance and dictate the necessity of defining terms that a city in a neighboring State finds it

unnecessary to define. Each municipality should define only those terms whose definition is essential, and avoid defining those that are, like "street line," susceptible of only one interpretation, viz, the dividing line between the street and abutting property. The meaning of this term is equally familiar to the people, the enforcement officials, and the reviewing authorities. Such definitions serve merely to clutter up the ordinance.

TERMS TO BE DEFINED.—There are a number of terms whose definition is most helpful, both as an aid to clarity and as an economy of words in the body of the ordinance. Without attempting to exhaust this class of terms it is thought that the following definitions may be used to advantage in any ordinance:

The term "used" shall be deemed to include the words "arranged, designed, or intended to be used."

The term "occupied" shall be deemed to include the words "arranged, designed, or intended to be occupied."

The word "building" shall be deemed to include the word "structure."

Lot.—A lot is a parcel of land occupied by one main building or use, with its accessories, and including the open spaces accessory to it. No area shall be counted as accessory to more than one main building or use, and no area necessary for compliance with the open-space requirements for one main building or use shall be included or counted in the calculation of the open-space accessory to any other main building or use.

Front yard.—A front yard is an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.

Rear yard.—A rear yard is an open space on the same lot with a main building, unoccupied, except as hereinafter permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

Side yard.—A side yard is an open unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard. If there be no front yard, the front boundary of the side yard shall be the street line, and if there be no rear yard the rear boundary of the side yard shall be the rear line of the lot.

Alley.—An alley is a street, not exceeding _____ feet in width.

Building area.—The building area is the maximum horizontal projected area of a building and its accessory buildings, excluding chimneys, open steps, balconies, buttresses, terraces, cornices, and other minor ornamental features projecting from the walls of the building and not otherwise supported by the ground.

CARE IN SELECTING TERMS FOR DEFINITION.—It can not be too strongly urged that each definition finding a place in the ordinance be scrutinized with extreme care to determine its utility and desirability. If a suggested definition does not enhance the clarity or definiteness of the measure, eliminate verbiage, or obviate useless repetition, it should be rejected.

DISTRICTS

CONSTRUCTION OF SECTION.—This section should state that for the purpose of regulating and restricting the location of trades, industries, and other uses, and the location of buildings designed, erected, altered, or occupied for specified purposes, the city is divided into the classes of districts decided upon and, after naming the districts, the section should include a reference to the map. The map must be

sufficiently described to insure ready identification and it should be incorporated by reference into the ordinance by appropriate language.

Application of Regulations.—A statement should then follow that no building is to be erected or altered, and no building or premises is to be used, for any purpose other than the use permitted in the district in which the building or premises is located.

Nomenclature.—Zoning is of such country-wide interest and its spread is so rapid that it would be well to establish a nomenclature which will carry the same, or approximately the same, significance throughout the country.

Residence Districts.—The districts set aside for dwellings are universally designated residence districts of one or more classes. These may be subdivided into single-family, 2-family, and multiple-family residence districts and are either called by those names, or are designated by letter, as residence A district, residence B district, and residence C district, respectively, for those mentioned. The designation by letter is somewhat more commonly used, and considerable confusion will be eliminated by standardizing upon it.

Business Districts.—In some ordinances the districts set aside for business and commercial uses are designated "commercial districts," and in others they are called "business districts."

The term "business" is considered more accurate terminology than "commercial" for describing the activities found in such districts. The term "commercial," from its derivation, connotes merchandise, whereas there are in districts of this character many activities, such as offices, and personal-service shops wherein service is the thing vended rather than goods. The term "business" is in considerably wider use than the term "commercial" and communities still to be zoned would do well to adopt it in the interest of uniformity and accuracy.

Frequently municipalities find it desirable to provide different height or use regulations for business buildings in different business districts, and it is often found advantageous to prescribe different area limitations for business buildings of the same height in different business districts. The different subdivisions, assuming the arrangement of coterminous districts as being used, may be indicated either by letter, as in the case of the residence districts, or descriptive names, such as "main business district" and "local business district," may be used. Business districts are usually fewer than residence districts.

Industrial Districts.—The term "industrial" is somewhat broader than the term "manufacturing" and, as many of the establishments customarily permitted in these districts engage in other than manufacturing pursuits, is consequently more accurate for describing the activities in such districts. It is coming to be used more and more, is recognized as good terminology, and its further use will promote uniformity and clarity.

It is very common practice to establish different districts in which light and heavy industries may locate and to make height and area regulations suitable for and dependent upon the industrial activities that may locate in each. Here also the designation of districts may be made by letter or by descriptive names as in the case of the business and residence districts.

Unrestricted Districts.—This title is not always used to signify all that it implies, since in some cities certain industries are, by reason of noxious odors, noise, or because of hazards inherent in them, prohibited. If the district is in fact unrestricted, the designation is, of course, proper, but where limitations are imposed it would be better to use an industrial district classification.

BOUNDARIES OF DISTRICTS

It will probably be found practical to so establish districts that boundary lines will follow center lines of blocks or center lines of streets or alleys. It is good practice to insert in the section in which districts are established a provision governing generally the interpretation of boundary designations.

In establishing boundaries of districts care should be exercised to include within a given district all the area which is to be governed by the regulations of that district.

The practice of providing that a building located in one district shall, if within a stated number of feet of a more restricted district, be governed as to height and area by the regulations of the latter district is not a good one. This shading off from one district to another is neither necessary nor desirable. It is much better that the boundaries be fixed with care and that all property within a district be subject to exactly the same regulation, regardless of its remoteness from or proximity to the edge of the district. The amelioration of arbitrariness at district boundaries can always be taken care of by the board of adjustment, acting under specific rules of conduct prescribed for such situations by the council.

DISTRICT REGULATIONS

Following the section of the ordinance in which districts are established should appear a group of sections each devoted to a single district. In each of these sections should be set out the regulations which are to apply in that district. Residence districts should be treated first, beginning with the most restricted use. Then should follow business districts in similar order, industrial districts arranged in like manner, with the unrestricted district, if any, being the subject of the last section. The reason for this arrangement is that uses are cumulative as the less restricted districts are reached—that is, uses permitted in residence A district and enumerated in the section devoted thereto will be allowed also in residence B district. Such uses may be referred to in the latter section as "residence A uses" without repeating the enumeration. So also residence B uses may be incorporated in residence C regulations by similar reference, and so on.

NONCONFORMING BUILDINGS AND USES

Possibilities and Practice.—While it has been held that a nonconforming use may be ousted from the district in which it has grown up prior to the enactment of the zoning ordinance and while the ousting of such a use may be advantageous in unusual cases, it is the general practice to permit established buildings and uses

found in a district at the time zoning is adopted to remain, and even to expand under certain well-defined conditions. To do otherwise, even were it possible under the laws of the State, might seriously disrupt a considerable amount of the business and industrial activity of the municipality.

Restoration of Destroyed or Nonconforming Buildings.—Buildings devoted to nonconforming uses may, of course, be damaged or destroyed by fire, by act of God (that is, a hurricane, earthquake, etc.), or by other casualty. Most people agree that some degree of such damage or destruction may properly be permitted to be repaired or restored. Opinions, however, differ as to the degree. In New York City, for example, a building completely destroyed may be rebuilt, while in some other municipalities only partly destroyed structures may be restored. The ordinance should be so framed that the owner of a nonconforming building will constantly be encouraged to substitute a conforming building whenever obsolescence or a calamity terminates the life of the nonconforming building. This can usually be accomplished without undue disturbance to the property owner.

Upon restoration there should be no liberalization of use and expansion regulations. They should apply to the restored property as they were applied to the property before the casualty.

Drafting Provisions.—In treating of nonconforming uses it is a common error, in trying to cover every possible contingency, to make regulations which are difficult to understand or to enforce.

Two features of zoning are probably mainly responsible for its growth—first, the requirement that the regulations within a district be uniform, and second, the regulations are not retroactive. Property owners would have been hostile if out-of-place buildings and uses lawfully established were annihilated or seriously affected in any way.

Early regulations on the subject of nonconforming uses are complex. Actual experience has shown that elaborate provisions are seldom satisfactory and seldom used. Nearly always the application contains elements that place it outside of the provision for nonconforming uses. Then the application goes to the board of adjustment and the whole subject is adjusted by the board.

A simple statement is much more desirable from every point of view. An example of a simple provision follows, and is suggested as a suitable regulation of this most difficult subject:

Suitable Section.—*Nonconforming uses.*—The lawful use of a building existing on the effective date of this ordinance, or authorized by a building permit issued prior thereto, may be continued, although such use does not conform with the provisions of this ordinance, and such use may be extended throughout the building. No nonconforming use shall be extended so as to displace a conforming residential use. A nonconforming use may be changed to a use of the same or higher classification according to the provisions of this ordinance. Whenever a district shall hereafter be changed, any then existing nonconforming use in such changed district may be continued or changed to a use of a similar or higher classification, provided all other regulations governing the new use are complied with. Whenever a nonconforming use of a building has been discontinued or changed to a higher classification or to a conforming use, such use shall not thereafter be changed to a nonconforming use of a lower classification. No building which has been damaged by fire or other causes to the extent of more than 75 per cent of its value shall be repaired or rebuilt except in conformity with the regulations of this ordinance.

ADMINISTRATION

Administrative Officer.—Under this section the ordinance should designate the official upon whom the duty or administration and enforcement shall devolve. This official should be given power to grant building and occupancy permits, to make inspections, and to make all decisions necessary to a proper carrying out of its provisions. This power will involve the authority to examine plans and specifications and to take the necessary action with reference thereto. The building inspector or building commissioner is usually the official designated to perform these duties and he is probably in a better position to do so than any other municipal officer, since he must, in enforcing the building code and other ordinances, review and pass upon these plans and specifications.

The standard enabling act provides authority under which the municipality can enjoin violations, and where it is employed the ordinance itself need not refer to injunctive relief. Where, however, the municipality adopts its ordinance under a sufficient home rule charter the authority to enjoin should be contained in the ordinance itself.

Building Permits.—Under this heading there should be set out the regulations which are to govern the filing of applications for building permits, the information and material which must accompany applications, and the duties of the administrative officer relative thereto.

Certificates of Occupancy and Applications Therefor.—The certificate of occupancy required by the zoning ordinance has a use distinct from that usually required by the building code. The latter customarily certifies that the building complies with technical construction requirements, designates the permissible use of the building, as a factory, office, etc., and frequently shows the permitted live load for each story as well as the number of persons that may be accommodated on each floor. It specifies that a new certificate must be procured upon a change of use. It is often required that in business and in industrial buildings the certificate shall be posted in a conspicuous place.

The purposes to be served by this type of certificate are manifest. It may be well to mention a few. Primarily, the owner or other person proprietarily interested is protected by the certificate. Building regulations are frequently changed to meet new developments and usually apply only to construction, alterations, etc., subsequent to the date of adoption. There are also frequent changes of officials through election and appointment. The certificate of occupancy serves the owner as proof that the building complied with regulations in force when it was erected or altered. It is evidence of the rights of an occupant much as a deed is evidence of ownership. This is real protection over a period of years against a possible requirement that the building be made to conform to regulations in effect years after its erection.

The inclusion of figures as to live loads, and persons to be accommodated, provides a ready basis for checking compliance with regulations, especially when the certificate is posted.

The certificate required by the zoning ordinance, however, is much different. The zoning ordinance is not concerned with the technicalities of construction. It makes no provision as to the type

of construction, stresses, loads, and the like. Its main purpose is to regulate the use of buildings in certain established districts, their height, and the area of the lot which may be occupied.

A certificate of occupancy under the zoning ordinance, therefore, may be a much more simple document, although it is no less important than its counterpart under the building code. It should certify that the premises have been inspected and either comply with the zoning regulations or that the use is a lawful nonconforming use. It should also state that a new certificate is required upon any change in the use of the property or upon any alterations. Such alterations may have an effect upon the property in relation to the height and area provisions of the ordinance. A certificate of occupancy under the zoning ordinance will similarly protect the owner or occupant, as will a certificate under the building code, having the same value under changing officials and amended ordinances as that before noted.

Where in a municipality contemplating zoning a building code is in force or where one is later adopted which provides for a certificate of occupancy, as advocated by experts in the latter field, it will probably be desirable to combine the two certificates. In that event the matters certified to in the form of certificate shown in the appendix hereto may be incorporated into the combined certificate as a separate paragraph. The heading of the certificate and the description of the property would then serve for the certification under both ordinances.

Forms should be prepared in duplicate, at least, and bound in book form, in order that a carbon duplicate may be kept on file in the office of the building official. More copies may be provided if the local-office system requires them. The binding in book form is suggested in order to minimize the number of entries to be made from applications while an applicant is waiting. One of the most frequent causes of complaint regarding building regulations is delays of this nature. Any measures that can reasonably be adopted, without unnecessary expense, to allay petty annoyances, are decidedly worth while.

Although it has been said that no attempt will be made in this pamphlet to indicate what the provisions of the ordinance shall be, it is thought that with reference to certificates of occupancy it will be helpful to suggest the phraseology of this section, and to outline a form of certificate and a form of application therefor upon which municipalities may profitably standardize. The following language is accordingly offered for inclusion in the ordinance as a proper expression on the subject of certificates of occupancy:

CERTIFICATES OF OCCUPANCY.—No land shall be used or occupied and no building hereafter structurally altered or erected shall be used or changed in use until a certificate of occupancy shall have been issued by the ------ inspector of buildings or other official stating that the building or the proposed use thereof complies with the provisions of this ordinance. A like certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. A certificate of occupancy, either for the whole or a part of a building, shall be applied for coincident with the application for a building permit and shall be issued within 10 days after the erection or structural alteration of such building, or part, shall have been completed in conformity with the provisions of this ordinance. A record of all certificates shall be kept on file in the office of the ------ inspector of buildings or other official and copies shall be furnished, on request, to any persons having a proprietary or tenancy interest in the building affected. No permit for excavation for, or erection of, any building, or part of a building, or for repairs to, or alteration of, a building shall be issued until after a statement of its intended use has been filed by the applicant.

INTERPRETATION: PURPOSE—*Conflict with other ordinances.*—It does not seem to be practical to include in one ordinance all regulations pertaining to a given subject, as, for example, the building code to some extent governs the open spaces of building with reference to light and ventilation. Nor is it practical to cross reference such provisions in different ordinances so as to keep the provisions uniform. The chance is too great that error will creep in under such a system.

For these reasons it is customary and advisable to insert at this point a section providing that where the regulations of the zoning ordinance on a stated point are more restrictive than regulations on the same point as contained in any other law or ordinance, the provisions of the zoning ordinance shall govern; and where the regulations of the other law or ordinance are more restrictive than those of the zoning ordinance, the other shall govern.

Completion of structures and pending applications.—It is well to include in the ordinance at this point a section dealing with building permits issued prior to the enactment of the ordinance. It is better practice not to interfere with permits applied for in good faith under which construction is started within a reasonable time and prosecuted with reasonable diligence. A suitable provision on this subject follows:

Nothing herein contained shall require any change in the plans, construction, or intended use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within six months of the date of such permit, and the ground story framework of which, including the second tier of beams, shall have been completed within six months, and which entire building shall be completed, according to such plans as filed, within two years from the effective date of this ordinance.

BOARD OF ADJUSTMENT

The effective handling of the board of adjustment provisions in an ordinance is difficult even to people who have had considerable experience in determining districts and the regulations for each district. Probably the reason is that the subject partakes so largely of legal considerations. The ordinary sample ordinance procured by a city engineer for suggestions in preparing an ordinance for his own city is more than likely to limit the board of adjustment provisions to a restatement of clauses from the State enabling act. This sample ordinance usually does not give the State law accurately. This error is so prevalent and has brought confusion into so many ordinances that it may be preferable not to repeat the provisions of the State law. It is good practice to bind the State enabling act at the end of the pamphlet containing the zoning ordinance. Citizens and officials then have the whole matter before them. The provisions of the State law are available to the board of adjustment as soon as it is created. It is well to place a footnote in the print of the ordinance stating that the reader should refer to the State law for all matters of appellate jurisdiction of the board of adjustment.

The standard enabling act gives all the provisions controlling the appellate jurisdiction. This consists of the power to reverse on

appeal the determination of the building inspector and to make a variance on appeal in cases of unnecessary hardship.

On consulting the standard enabling act or any good State enabling act one will find that the local legislative body can prescribe for the board of adjustment certain cases or items wherein, subject to appropriate conditions and safeguards, the board of adjustment can make special exceptions. It is evident that these are items of a special type of jurisdiction, different from those mentioned in the preceding paragraph. Application to the building inspector could be omitted entirely in cases of this kind, but as a matter of practice these items usually go up to the board of adjustment in the same manner as if they were appeals. This, however, is for the sake of uniform practice and does not alter the character of the jurisdiction.

Now we are prepared to consider what the ordinance should contain under the head of board of adjustment.

1. A statement that a board of adjustment is hereby established. The method of naming the members should be stated, whether by the mayor or by the council. The number of members and the specific terms of office will depend on the State law or the home-rule charter.

2. Next the ordinance will prescribe the subject of original jurisdiction. Probably no better general provision can be used than that employed in the ordinance of Greater New York, the words of which are substantially followed in the standard enabling act:

> The board of adjustment may, in appropriate cases, after public notice and hearing and subject to appropriate conditions and safeguards, make special exceptions to the terms of this ordinance in harmony with its general purpose and intent as follows:

except that the Greater New York ordinance did not use the words "make special exceptions," but instead used the words "determine and vary the application of the regulations herein established." These latter words are used in all the New York State enabling acts and in a considerable number of the acts of other States. Of course the ordinance of each city should use the words that are employed in the zoning enabling act of that State.

This general statement will be followed by the items. Where possible the items should contain a specific rule of conduct. Different municipalities will require different items. Here are some examples of items taken from the Greater New York ordinance:

> (*a*) Permit the extension of an existing or proposed building into a more restricted district under such conditions as will safeguard the character of the more restricted districts.
>
> (*b*) Permit in a business district the erection of a garage or stable in any portion of a street between two intersecting streets in which portion there exists a garage for more than five motor vehicles or a stable for more than five horses.
>
> (*c*) Grant in undeveloped sections of the city temporary and conditional permits for not more than two years for structures and uses in contravention of the requirements of this article.
>
> (*d*) Permit in a business or residence district the erection of a garage, provided the petitioner files the consents duly acknowledged of the owners of 80 per cent of the frontage deemed by the board to be immediately affected by the proposed garage. Such permit shall specify the maximum size or capacity of the garage and shall impose appropriate conditions and safeguards upon the construction and use of the garage.

Sometimes it is found convenient to allow certain construction or uses in the body of the ordinance "on the approval of the board of adjustment as hereinafter provided." For instance, an airport may be allowed in a residence district "on the approval of the board of adjustment as hereinafter provided." Where this is done there should be an additional provision under the board of adjustment items:

> (*e*) Grant a permit wherever it is provided in this ordinance that the approval of the board of adjustment is required.

PENALTIES

In some municipalities provision is made in a separate ordinance for penalties for violation of the zoning and other ordinances.

It is better practice, where the legislative body has the power, to incorporate a section in the zoning ordinance prescribing penalties for the violation thereof. This method is somewhat simpler from a procedural standpoint and has the virtue of making the ordinance complete within itself.

AMENDMENTS

Our recommendation of binding the State enabling act with the zoning ordinance should be repeated here. If amendments are lawfully made they must comply with the State law. It is best not to repeat the State law in the ordinance. A footnote can well be introduced in the print made for circulation so that the reader will turn to the State law. This method makes for accuracy. If the State law is amended the ordinance does not need to be amended also.

Sometimes, however, the municipality desires to supplement the State law by a rule to protect itself against applications for changes of small plots, or impulsive applications of one or two individuals, or repetitive applications. Advertising improper applications costs the city as much as advertising proper ones. Then, too, the council ought not to deny a hearing where the number of owners is substantial. For these reasons clauses like the following may be inserted in the ordinance itself:

> Whenever the owners of 50 per cent or more of the frontage in any proposed new district shall present to the council a petition duly signed and acknowledged requesting an amendment of the zoning map, it shall be the duty of the council to hold a public hearing thereon and cause notice to be given as required by law.
>
> In addition to the notice as required by law, the council shall cause a notice of any proposed amendment to be mailed to every association of residents which shall have registered its name and address for this purpose with the city clerk.

VALIDITY OF ORDINANCE

It is customary, and a commendable practice, to include a section declaring that the validity of one section of the ordinance shall not depend upon the validity of another part.

EFFECTIVE DATE

Local practice relative to establishing the effective date of the ordinance should, of course, be followed, and a separate section at the end of the ordinance should set out the date on which it will become effective.

AUTHENTICATION

The local practice of signing and attesting the ordinance should also be complied with.

PREPARATION OF MAP OR MAPS

In preparing the final zone map, one of several types may be employed. In some cities a plain outline map in black and white is used, showing, in outline only, the streets and other thoroughfares, parks, etc., and showing also in heavy black outline the boundaries of districts established by the ordinance. In such districts there may appear the district designations, as "residence A," "business A," "industrial A," etc., or simply abbreviations of these; or the proper designation of height or area districts, if separate districts are used, etc. In other cities another style of black and white map is used. Instead of indicating districts by black outline only, each district is designated by a design, as, diagonal lines for "residence A" districts, black and white checks for "business A" districts, solid black for "industrial C" districts, and other designs of similar distinctive character for the other districts established. On such design maps the designation of the district may be shown in a rectangular space somewhere within the district boundaries.

It may be desired to employ colors in the map. If so, a separate color may be selected for each district, or if fewer colors than would be necessary in such a map are preferred a color may be selected for each of the basic uses, as residence, business, and industrial uses, and the subdivisions of these uses may then be shown by designs within the color selected, as checkered red for "residence A," diagonally striped red for "residence B," checkered blue for "business A," diagonally striped green for "industrial B," yellow for unrestricted districts, and so on.

The controlling factor in selecting the type of map to be employed will, in many instances, be the cost of preparation and printing. Black and white maps will be found to cost much less than those in colors.

If a black and white map is to be used, the design type is better, since it shows more readily the extent and boundaries of districts. Of the colored maps the design type is also preferable, as it reduces the number of colors to be used and shows at a glance the various districts devoted to the basic uses, since, for example, the color red, in its various modifications, may be used to denote residence use, etc.

Although in the black and white design map or either type of colored map the whole district, including the streets as well as the abutting property, may be covered by the design or color, it is better practice to show the streets in white and to cover with the design or color only the abutting property, since it is such property only which is subject to the zoning regulations. It is a comparatively simple matter, when changes in districts are made, to prepare a slip corresponding to the scale of the original map and showing the new designation of the area affected and to paste it over the area on the map. This is much more simple and costs less than to print a new slip showing the whole district with the change incorporated.

On any type of map it is well to print in one of the lower corners a legend of the district designations used, whether or not these designations also appear, as suggested, in rectangular spaces within the districts in the body of the map.

APPENDIX

OUTLINE OF ORDINANCE GROUPING REGULATIONS ACCORDING TO DISTRICTS

Title.
Preamble.
Enacting clause.
Short title.
Definitions.
Districts (reference to map).
Boundaries of districts.
Application of regulations.
Residence districts (similarly for each residence district).
- Permitted uses.
- Accessory uses (residence districts).
- Height limitations (height limitations and area regulations may be given in tabular form).
- Area regulations (including limitation of density of population).
  - Permitted lot occupancy or other area regulation.
  - Yards:
    - Front.
    - Side.
    - Rear.
  - Courts:
    - Outer.
    - Inner.

Exceptions to residence district regulations (if there are any common to two or more).
Business districts (similarly for each business district).
- Prohibited or permitted uses.
- Accessory uses.
- Height limitations (height limitations and area regulations may be given in tabular form).
- Area regulations (including limitation of density of population).
  - Permitted lot occupancy or other area regulation.
  - Yards:
    - Front.
    - Side.
    - Rear.
  - Courts:
    - Outer.
    - Inner.

Exceptions to business district regulations (if there are any common to two or more).
Industrial districts (similarly for each industrial district).
- Prohibited or permitted uses.
- Accessory uses.
- Height limitations (height limitations and area regulations may be given in tabular form).
- Area regulations (including limitations of density of population).
  - Permitted lot occupancy or other area regulation.
  - Yards:
    - Front.
    - Side.
    - Rear.
  - Courts:
    - Outer.
    - Inner.

Exceptions to industrial district regulations (if there are any common to two or more).
Unrestricted district.
Nonconforming buildings and uses.
Application of height limitations and exceptions.
Application of area regulations and exceptions.
Administration:
- Administrative officer.
- Building permits.
- Certificates of occupancy.
- Interpretation; purpose:
  - Conflict with other ordinances.
  - Completion of structures and pending applications.

Board of adjustment.
Penalties.
Amendments.
Validity.
Effective date.
Authentication.

OUTLINE OF ORDINANCE GROUPING REGULATIONS ACCORDING TO TYPE OF REGULATION

Title.
Preamble.
Enacting clause.
Short title.
Definitions.
Districts (reference to map or maps).
Boundaries of districts.
Application of regulations.
Use regulations.
- By districts.
  - Permitted or prohibited uses (including accessory uses).

Exceptions to use district regulations (if there are any common to two or more).
Nonconforming uses.
Height limitations.
- By districts (may be given in tabular form).
  - Permitted heights, in feet and stories.

Application of height limitations and exceptions.
Area regulations (including limitation of density of population).
- By districts (may be given in tabular form).
  - Permitted lot occupancy or other area regulation.
  - Yards:
    - Front.
    - Side.
    - Rear.
  - Courts:
    - Outer.
    - Inner.

Application of area regulations and exceptions.
Administration:
- Administrative officer.
- Building permits.
- Certificates of occupancy.
- Interpretation; purpose:
  - Conflict with other ordinances.
  - Completion of structures and pending applications.

Board of adjustment.
Penalties.
Amendments.
Validity.
Effective date.
Authentication.

CITY OF _____, _____

DEPARTMENT OF BUILDINGS

APPLICATION FOR ZONING CERTIFICATE OF OCCUPANCY

No. ____

_____, 19___.

To the (Inspector of Buildings):

Application is hereby made for a permit to occupy the {building / premises} located at and known as _____ _____
(Number) (Street or avenue)

as _____
(Description of use, as residence, office building, store, etc., giving details)

_____

_____

_____

as a {conforming / nonconforming} use.

The applicant hereby agrees to abide by and comply with all conditions of ordinance No. ____, known as the zoning ordinance.

_____
(Signature of applicant)

_____
(Address of applicant)

(To be filled out by Department of Buildings)

Lot No. ____ Block No. ____ Use dist. ____ Height dist. ____ Area dist. ____

Front yard, ft. ___ in. __ Side yard, {ft. ___ in. __ / ft. ___ in. __} Rear yard, ft. ___ in. __

Inner courts, {ft. ___ in. __ by ft. ___ in. __ / ft. ___ in. __ by ft. ___ in. __}

Outer courts {ft. ___ in. __ by ft. ___ in. __ / ft. ___ in. __ by ft. ___ in. __}

Application for building permit No. _____ Building permit No. _____

Certificate of occupancy No. _____

Remarks_____

_____

_____

_____

CITY OF _____, _____

DEPARTMENT OF BUILDINGS

ZONING CERTIFICATE OF OCCUPANCY

(Conforming use)

No. _____

_____, 19__

This certifies that the {building / premises} located on lot No. _____, block No. _____, in _____, _____, _____, and known as _____
(Use district) (Height district) (Area district) (Number)
_____, has been inspected and that the use thereof as a
(Street or avenue)
_____, conforms to the provisions of ordinance No. _____,
(Kind of occupancy)
known as the zoning ordinance, and is approved.

A new certificate is required for each change in the use, or after alterations of the property described, and a new certificate voids any certificate of a prior date.

Application for certificate of occupancy No. _____.

_____
(Signature of official)

_____
(Designation of official)

CITY OF _____, _____

DEPARTMENT OF BUILDINGS

ZONING CERTIFICATE OF OCCUPANCY

(Nonconforming use)

No. _____

_____, 19__

This certifies that the {building / premises} located on lot No. _____, block No. _____, in _____, _____, _____, and known as _____
(Use district) (Height district) (Area district) (Number)
_____, has been inspected and the use thereof as a
(Street or avenue)
_____, being a nonconforming use under the provisions of
(Kind of occupancy)
ordinance No. _____, known as the zoning ordinance, is approved.

A new certificate is required for each change in the use, or after alterations of the property described and a new certificate voids any certificate of a prior date.

Application for certificate of occupancy No. _____.

_____
(Signature of official)

_____
(Designation of official)

DETAILED REFERENCES BY STATES TO LAWS BASED UPON THE STANDARD ACT

ALABAMA	Laws of 1923, regular session, No. 435. Applies to municipalities having a population of 100,000 or more.
ARIZONA	Laws of 1925, chapter 80. Applies to "cities and towns."
	Laws of 1927, chapter 27. Applies to "cities and towns."
COLORADO	Laws of 1923, chapter 182. Applies to "each city and incorporated town."
CONNECTICUT	Public acts of 1925, chapter 242. Applies to "each city, town, or borough" (New Haven excepted).
DELAWARE	Laws of 1923, chapter 114. Applies to "cities and incorporated towns."
FLORIDA	Laws of 1923, H. B. 966 (Miami Beach).
	Laws of 1925, chapter 10809 (Leesburg).
	Laws of 1925, chapter 11049 (West Palm Beach).
	Laws of 1925, chapter 11157 (Sebring).
	Laws of 1927, chapter 13388 (Sanford).
	Laws of 1927, chapter 13558 (Winter Park).
	Special acts of 1929, chapter 14051. Amends grant of power and provides board of adjustment provisions. Applies to cities of Fort Myers and East Fort Myers.
GEORGIA	Laws of 1923, No. 332 (Valdosta).
	Laws of 1929, No. 286 (Valdosta).
IDAHO	Laws of 1925, chapter 174. Applies to "cities of the first class."
ILLINOIS	Laws of 1923, H. B. No. 478. Provides for board of appeals, protests, and preventions of violation. Applies to "each city, village, and incorporated town."
IOWA	Laws of 1923, chapter 134. Applies to "any city or town."
KENTUCKY	Acts of 1928, chapter 80. Applies to cities of the second class.
LOUISIANA	Laws of 1926, Act No. 240. Applies to "all incorporated cities, towns, and villages."
MARYLAND	Laws of 1924, chapter 103 (Takoma Park).
	Laws of 1924, chapter 560 (Cumberland).
	Laws of 1927, chapter 705. Applies to cities and incorporated towns containing more than 10,000 inhabitants.
	Laws of 1929, chapter 415. (Rockville).
MICHIGAN	Public acts of 1929, No. 79. Applies to organized townships.
MINNESOTA	Laws of 1929, chapter 340. Provides for board of adjustment, method of procedure, and other purposes. Applies to cities of the first class ("having 50,000 inhabitants or over").
MISSISSIPPI	Laws of 1924, chapter 195. Applies to "municipalities of over 5,000 inhabitants."
MISSOURI	Laws of 1925, H. B. No. 295. Applies to "all incorporated cities, towns, and villages in counties having not less than 50,000 population."
MONTANA	Laws of 1929, chapter 136. Applies to "cities and incorporated towns."

NEBRASKA	Laws of 1927, chapter 43. Applies to "cities of the first class of over 5,000 and less than 25,000 inhabitants, all cities of the second class, and villages."
NEVADA	Laws of 1923, chapter 125. Applies to "all cities and incorporated towns."
NEW HAMPSHIRE	Laws of 1925, chapter 92. Applies to "cities and towns."
NEW JERSEY	Laws of 1924, chapter 146. Applies to "municipalities."
	Laws of 1925, chapter 58. Provides for the appointment of board of adjustment, prescribing its powers and duties, in municipalities.
	Laws of 1928, chapter 274. Applies to "municipalities."
NEW MEXICO	Laws of 1927, chapter 27. Applies to all incorporated cities, towns, and villages.
NORTH CAROLINA	Laws of 1923, chapter 250. Applies to "cities and incorporated towns."
NORTH DAKOTA	Laws of 1923, chapter 175. Applies to "all cities having a population in excess of 6,000 inhabitants by the Federal census of 1920 or by any subsequent Federal census."
OKLAHOMA	Laws of 1923, chapter 178. Applies to "cities and incorporated villages."
PENNSYLVANIA	Laws of 1923, Act No. 93. Provides for board of appeals for cities of the second class.
	Laws of 1925, Act No. 200. Provides for board of appeals for cities of the third class.
	Laws of 1927, Act No. 69. Applies to "cities of the second class" (Pittsburgh).
	Laws of 1929, Act No. 469. Applies to "cities of the first class" (Philadelphia).
RHODE ISLAND	Acts of 1923, chapter 2315. Applies to cities, provides for board of review.
SOUTH CAROLINA	Acts of 1924, No. 642. Applies to "cities and incorporated villages."
SOUTH DAKOTA	Laws of 1927, chapter 176. Applies to municipal corporations.
TENNESSEE	General and special laws of 1927, chapter 549 (Jackson City).
TEXAS	Laws of 1927, chapter 283. Applies to "cities and incorporated villages."
UTAH	Laws of 1925, chapter 119. Applies to "cities."
VERMONT	Laws of 1931, senate bill 25. Applies to "cities, towns, and villages."
VIRGINIA	Laws of 1926, chapter 197. Applies to "cities and towns."
	Laws of 1927 (extra session), chapter 15. Applies to Arlington County.
WEST VIRGINIA	Laws of 1927, S. B. No. 261 (Charleston).
	Laws of 1927, chapter 5, sec. 38 (*a*) (Wheeling).
WYOMING	Acts of 1923, chapter 78. Applies to "incorporated cities, towns, and villages."

MSH 24397

DEPARTMENT OF COMMERCE

WASHINGTON

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